

Exhibit 1



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November 7, 2017

VIA EMAIL TO: privacy@tesla.com
VIA CERTIFIED MAIL (Return Receipt Requested)

TESLA, INC.
3500 Deer Creek Road
Palo Alto, California 94304

C/O
Business Filings Incorporated, Registered Agent for and behalf of Tesla, Inc.
108 West 13th Street
Wilmington, Delaware 19801

Re: POTENTIAL INFRINGEMENT BY TESLA, INC.
Our File No.: BGT-0021.IV.PT

To Whom It May Concern:

This law firm represents Nikola Corporation (also known as Nikola Motor Company and formerly known as Bluegentech, LLC) in intellectual property legal matters, including enforcement of their intellectual property rights. As you may be aware through your company's presence in the electric vehicle industry, my client has developed the first class 8 electric drive train semi-truck and is seeking patent protection for various design and utility aspects for its electric drive train semi-truck, known as the Nikola One. We expect several of these patent applications to mature into patents soon relating to Nikola One's fuselage, wrap windshield, mid-entry door, and other features. Further, my client first revealed images of the Nikola One in May of 2016 and on December 1, 2016 unveiled its truck at a live event, which was highly publicized and has nearly 1 million views on its YouTube channel found at <https://www.youtube.com/channel/UCOYkKxKCc7BJzavBhTTddDw/feed>. Further, my client's Nikola One class 8 electric drive train semi-truck has been well documented and publicized in various tech blogs (such as Road Show by CNET, Business Insider and Trucks.com) since spring of last year.

As announced by your CEO several months ago, Tesla is working on a fully electric class 8 semi-truck. According to news sources, Tesla sought to unveil its semi-truck on October 26, 2017. However, according to news outlets (*see, e.g.* <https://www.teslarati.com/tesla-emails-semi-truck-event-save-date->

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[october-26-invitees/](#), Tesla announced that it had delayed its semi-truck unveiling date to November 16, 2017, so that the company can focus on hurricane relief efforts for the island of Puerto Rico.

Recently, various “spy” photographs have surfaced purporting to be Tesla’s electric semi-truck set to be unveiled at the November 16, 2017 event. A copy of one such photograph is attached as Exhibit A. We have not been able to locate any instance in which Tesla has disavowed itself from the photograph in Exhibit A. Based on this and other photographs, it appears Tesla’s electric semi-truck is a potential infringement of one or more of my client’s patents when they issue.

According to 35 U.S.C. §271(a): “Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent.”

With respect to my client’s design patents, the United States Court of Appeals for the Federal Circuit unanimously ruled *en banc* in *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665 (Fed. Cir. 2008), that a design patent is infringed if an ordinary observer would think that the accused design is substantially the same as the patented design when the two designs are compared in the context of the prior art. Based on the photograph of Exhibit A, Tesla’s electric semi-truck design is substantially the same as my client’s Nikola One class 8 electric drive train semi-truck. Evidence of the substantial similarity includes the many online magazines and blogs that identified the similarity of design, and in some instances completely confused the Nikola One with the Tesla Semi. Copies of a sampling of those online magazines and blogs are enclosed as Exhibit B.

Thus, there is an infringement issue with respect to my client’s fuselage, wrap windshield, and mid-entry door if Tesla proceeds with its planned manufacture, use and sale of its electric semi-truck. Tesla’s potential infringement of my client’s patent rights entitles my client to equitable and legal remedies, including injunctive relief, damages, lost profits, and reasonable attorney’s fees under 35 U.S.C. §§283, 284, 285 and 289. Further, Tesla’ actions may also constitute unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a). Accordingly, we hereby provide Tesla with notice of my client’s intellectual property rights relating to its electric drive train semi-truck, including the fuselage, wrap windshield, and mid-entry door, and Tesla’s potential infringement of those intellectual property rights.

Please understand Nikola’s substantial commitment to its Nikola One electric drive train semi-truck due to its past investment and its continued commitment to provide innovative improvements to its products. Because of that commitment, Nikola cannot allow third parties to encroach upon its intellectual property rights and Nikola is committed to enforcing its intellectual property rights when necessary.

Accordingly, Nikola requires that Tesla refrain from unveiling its electric semi-truck under its current design and otherwise refrain from proceeding to make, use, sale, offer for sale, and/or import

WITHOUT PREJUDICE AND INADMISSIBLE COMMUNICATION UNDER FRE 408

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into the United States Tesla's electric semi-truck as illustrated in Exhibit A to avoid infringing on Nikola's pending patents.

Please provide me with notification of your intention to comply with the requirements of this letter no later than **November 15, 2017**. Otherwise, you and your company will be subjected to the rights provided to my client under the patent and unfair competition laws of the United States.

Note that my office must receive your written response in a timely manner to avoid the necessity of my client taking further steps against Tesla in the future. Your written response must be directed to me at the address listed above in the letterhead.

If you will be referring this matter to legal counsel, I advise you to do so immediately to provide such counsel adequate time to respond to this letter by the above-identified date. It should be noted that this letter is written without prejudice to any of my client's legal and equitable rights or remedies, all of which are hereby expressly reserved.

Sincerely,

A handwritten signature in blue ink that reads "Terrence Edwards".

Terrence J. Edwards

TJE/jms

Enclosures: Exhibit A – Photograph purported to be Tesla's electric drive train semi-truck

Exhibit B – Copies of a sampling of online magazines and blogs mistaking Nikola's electric drive train semi-truck for Tesla's electric drive train semi-truck

cc: Britton Worthen, Chief Legal Officer at Nikola Corporation

EXHIBIT A



EXHIBIT B

<http://www.trucktrend.com/news/1705-elon-musk-teases-upcoming-tesla-semi-in-ted-talk/> (stating that the “truck looks very similar to another futuristic-propulsion semi concept, the Nikola One.”)

<https://www-inverse-com.cdn.ampproject.org/c/s/www.inverse.com/amp/article/37232-tesla-semi-truck-rendering> (comparing the Nikola One and the Tesla Semi side by side)

<https://www.teslarati.com/tesla-semi-truck-return-investment-roi/> (copy of Nikola One image used with Tesla name)

<https://electrek.co/2016/11/07/tesla-semi-truck-drivers-will-still-be-needed-for-a-few-years-says-ceo-elon-musk/> (showing the Nikola One in a photograph while referencing Tesla’s Vice President of Vehicle Programs, Jerome Guillen, and Tesla CEO Elon Musk who made comments about the semi and its autonomous driving capacity)

<http://vrzone.com/articles/tesla-earn-billions-trucking-market/125809.html> (showing the Nikola One, but referred to as the Tesla semi truck)

Slide from 22 OCT 17 presentation by Larry Burns at 2017 ATA Management Conference in Orlando, FL mistaking Nikola One for Tesla Semi.

